

Comments on January 3, 2013 PC Meeting Agenda Item 2

The following comments on Item 2 on the January 17, 2013, Newport Beach Planning Commission agenda are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 2: Zoning Code Amendment Single Room Occupancy Residential Hotels and Parking for Emergency Shelters (PA2012-179)

Regarding the proposed resolution and the snippets of modified code presented as Exhibit A, we seem to have entered the brave new world permitted by the Measure EE changes to City Charter Section 418, which formerly required reenactment of the code sections “at length.”

Although this new, abbreviated process saves paper, it is apparent to me that deprives both the lawmakers and the public from seeing the proposed changes in context.

Having gone to the extra work of trying to determine where these proposed changes would go, I would like to make the following technical observations:

- On handwritten pages 11 and 12 of the 14 page staff report, the fragments of what purports to be Table 2-4 from Municipal Code Section 20.20.020 differs from the tables adopted in the Zoning Code adopted by Ordinance 2010-21 as signed by then Mayor Keith Curry and approved by then City Attorney David R. Hunt. Those tables erroneously made references to 20.66.080 and 20.66.090, which have been corrected here to 20.52.020 and 20.52.040. In a sense it is good that “errors” have been corrected, but at the same time it may be worrisome to some that changes can apparently be made without public knowledge or awareness, leaving one wondering what other parts of the publicly adopted legislation might be regarded as “errors” subject to change without notice in the on-line code?
- It is also difficult to verify the proposed insertions because the even-numbered pages of this part of the Zoning Code, which would presumably have included the “Visitor Accommodations, Nonresidential” sections of Tables 2-4 and 2-5 were omitted from the adopted ordinance (or, at least, if they are there they are out of sequence and I was unable to find them).
- On handwritten page 14, the statement that “*All other definitions within this Section remain the same and will be renumbered accordingly*” is a bit confusing since the definitions referenced were not numbered in the adopted Newport Beach Zoning Code. Checking on-line, someone appears to have numbered them there, and slightly modified their wording. Again, one wonders what else may have been changed?

I would further, and more importantly, like to make the following substantive comments:

- On handwritten page 3, I'm not sure I fully understand the proposed definition of "*Single Room Occupancy Residential Hotels*," nor the rationale for why they would be permitted "*in all of the Office and Commercial Districts*" rather than just the zones in which other transient/residential uses are allowed (referring to proposed Table 2-4) – that is, why are they the least restricted in location? This seems a failure of planning.
- On handwritten page 11, in Table 2-4, it seems a further oddity to have "*SRO Residential Hotel*" listed under the heading "*Visitor Accommodations, Nonresidential*". Perhaps this makes sense when seen in a larger context, but as presented, it does not.
- On handwritten page 13, I'm not sure I understand the intended meaning of the proposed *Off-Street Parking Requirement for Emergency Shelters*. Is it trying to say there is an **additional** requirement of ½ space for each bedroom in a "designated family unit"? Or, for designated family units, does that **replace** the 1 space per 4 beds requirement? I find the language unclear.
- On handwritten page 14, regarding the proposed definition of "*Single Room Occupancy, Residential Hotels (SRO) SRO*":
 - Is there supposed to be a comma between "*Single Room Occupancy*" and "*Residential Hotels*"?
 - Is the abbreviation "SRO" supposed to appear twice?
 - As to the substance of the definition itself, where does this wording come from? Why six and more rooms? Why the emphasis on kitchen facilities?
 - The text implies it is a HUD definition, but Googling on the text, the only place I can find a similar definition is in the Oceanside Municipal Code.
 - The US Census Bureau (<http://www.census.gov/srd/papers/pdf/ssm2006-03.pdf>) has pages of definitions including:
 - *Federal: "Single room occupancy housing' means a unit that contains no sanitary facilities or food preparation facilities, or contains one but not both types of facilities (as those facilities are defined in 887.251 (a) and (b), that is suitable for occupancy by an eligible individual capable of independent living."* [SOURCE: United States 1992 (USC 24CFR887.481 §. 887.481)]
 - *San Diego, California: "a facility with more than five sleeping rooms that is kept, used, maintained, advertised, or held out to the public as a place where sleeping rooms are offered on a single room occupancy (SRO) basis and intended for use as a primary*

residence for residential guests for a period of more than thirty days." [SOURCE: City of San Diego 2003 (Municipal Code 1301:7-5-08 (A) §124.1.2).]

- The California Health and Safety Code provides the following definitions: *"50519. (b) (1) "Residential hotel" means any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, which is primarily used by transient guests who do not occupy that building as their primary residence."*

17958.1. Notwithstanding Sections 17922, 17958, and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance. In all other respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part. "Efficiency unit," as used in this section, has the same meaning specified in the Uniform Building Code of the International Conference of Building Officials, as incorporated by reference in Chapter 2-12 of Part 2 of Title 24 of the California Code of Regulations."

- Note that all these definitions, other than the one in Oceanside, **allow** kitchen amenities.
 - Under our proposed definition, does a regular hotel become an SRO if a person lives there permanently? If six people use it as a residence, but the others are normal hotel guests? Conversely, does an SRO lose its SRO status if some of its occupants *don't* use it as their primary residence?
 - What category of use does an SRO become if it adds a kitchen? Or it has a kitchen to feed the residents, but it isn't "exclusive"?

Again, without seeing the proposed changes in a larger context, and perhaps even then, I find all of this very unclear.